

SENATE BILL 1442

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 8; Title 10; Title 12; Title 33; Title 37; Title 41;
Title 53; Title 56; Title 63; Title 68 and Title 71,
relative to prescription drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 1, Part 1 is amended by
adding the following as a new section:

Section 68-1-122.

(a) The governor is authorized to establish by executive order in the governor's discretion a state executive formulary committee consisting of five (5) members. If established, the commissioner of finance and administration, the commissioner of health, and the commissioner of mental health and developmental disabilities, the commissioner of general services and the commissioner of correction, shall each appoint one (1) representative to serve on the state executive formulary committee.

(b) The executive formulary committee shall construct a state preferred drug list (PDL) based on the recommendations it may receive from state agencies and drug prices net of rebates obtained through the state pharmacy benefit manager. Due to the confidential nature of pharmaceutical rebates, meetings of the state executive formulary committee are not subject to the provisions of title 8, chapter 44, and the committee shall maintain the confidentiality of all proprietary information it may acquire.

(c) The PDL may apply to all pharmacy purchases within:

- (1) The department of mental health and developmental disabilities;
- (2) State group insurance programs;
- (3) The department of correction;

- (4) The nursing home portion of the medical assistance program;
- (5) The medical assistance program operated under the TennCare waiver; and
- (6) Any other pharmacy purchases designated by the department of finance and administration.

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 3, Part 10, is amended by adding the following as new section to be appropriately designated:

Section 4-3-1016.

(a) If the governor establishes the state executive formulary committee pursuant to section 1, the department of finance and administration shall contract with a pharmacy benefit manager (PBM) to administer certain prescription drug programs for the state as such programs are designated by the commissioner of finance and administration.

(b) Under the contract, the PBM shall:

(1) Provide information to the state formulary committee to assist in the development of a state preferred drug list (PDL);

(2) Provide claims processing and administrative services for the department of correction, the state group insurance programs, the department of mental health and developmental disabilities, and any other pharmacy purchases designated by the department of finance and administration;

(3) Provide data on utilization patterns to the department of finance and administration contract partners for state employee health plans, the University of Tennessee Health Science Center, and other entities determined by the department of finance and administration;

(4) Conduct prospective and retrospective drug utilization review as directed by the department of finance and administration;

(5) Establish procedures for determining potential liability of third-party payers, including but not limited to Medicare and private insurance companies, for persons receiving pharmacy services through the state;

(6) Maintain a retail pharmacy network to provide prescription drugs through state programs;

(7) Provide mail-order pharmacy services to provide prescription drugs through state programs;

(8) Set pharmacy reimbursement rates and dispensing fee schedules necessary to maintain an adequate retail pharmacy network and increase the cost-effectiveness of state pharmacy purchases;

(9) Negotiate rebates with pharmaceutical manufacturers for prescription drug purchases;

(10) Establish maximum allowable cost (MAC) prices for drugs available in generic form. These prices must be in compliance federal upper limit (FUL) prices established under 42 USC § 1396r-8;

(11) Maintain accounts for local government entities participating in state-sponsored prescription drug programs; and

(12) Propose other initiatives to the bureau of TennCare and the department of finance and administration to maintain or improve patient care while reducing prescription drug costs; and

(13) Provide other services as directed by the department of finance and administration.

(c) The PBM contract shall include performance goals and financial incentives for success or failure in attaining those goals.

(d) The bureau of TennCare may enter into an interagency agreement to participate in the state executive formulary committee PBM/PDL program and through the state PBM may negotiate manufacturer rebates for TennCare prescription drug purchases.

SECTION 3. Tennessee Code Annotated, Title 8, Chapter 27, Part 1, is amended by adding the following as a new section:

Section 8-27-104.

(a) The department of finance and administration is authorized to remove pharmacy services from appropriate state contracts and assume direct responsibility for all pharmacy purchases within the state employee health plans.

(b) The department of finance and administration shall hire a pharmacy director to administer the pharmacy benefit for state group insurance programs in association with the state pharmacy benefit manager.

(c) The department of finance and administration, through the state pharmacy benefit manager (PBM), shall negotiate manufacturer rebates for state employee health plans prescription drug purchases.

(d) The department of finance and administration shall study the feasibility of using alternative pharmacy reimbursement rates for maintenance drugs and implement such changes as necessary to increase program cost-effectiveness.

SECTION 4. Tennessee Code Annotated, Title 4, Chapter 3, Part 11, is amended by adding the following as a new section:

Section 4-3-1114.

(a) The department of general services, through the state pharmacy benefit manager (PBM), shall negotiate manufacturer rebates for state wholesale prescription drug purchases.

(b) The department shall implement prior authorization and step therapy requirements based on the state preferred drug list (PDL).

(c) The department of correction shall study the potential cost savings from carving out prescription drug purchases from existing contracts and obtaining prescription drugs through the department of general services.

SECTION 5. Tennessee Code Annotated, Section 4-29-228(a), is amended by adding the following new items to be appropriately designated:

() State executive formulary committee;

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. This act shall take effect on becoming a law, the public welfare requiring it.